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EXEMPTION OF STATE AGENCIES FROM TAXATION BY THE NATIONAL GOVERNMENT. —The preservation of our dual system of government demands that the means employed by each sovereign in performing its proper governmental functions be exempt from taxation by the other sovereign, since it would otherwise be within the power of one, by excessive taxation, to cripple the operations of the other.[1] For this reason a state cannot tax a national bank,[2] nor the salary of a federal officer.[3] Conversely, the United States cannot impose stamp duties upon the judicial process of state courts,[4] or the official bonds of state officers,[5] or upon tax deeds issued by a state;[6] nor can it forbid the recording under state laws of an unstamped mortgage,[7] or tax the salary of a state officer,[8] or the income of a municipal corporation, since that is a division of the state.[9] A federal tax on the bond required by state law from a saloon-keeper to secure compliance with statutes regulating the sale of liquor has also been held invalid as an interference with the means adopted by the state under its police power to regulate the liquor trade,[10] although it is hard to see how such a tax impedes the state in such regulation.

1 See Cooley, Const. Lim., 7th ed., 680, 683.
2 M'Culloch *v.* Maryland, 4 Wheat. (U. S.) 316.
3 Dobbins *v.* Commissioners of Erie County, 16 Pet. (U. S.) 435.
4 Fifield *v.* Close, 15 Mich. 505.
5 State *v.* Garton, 32 Ind. 1.
6 Sayles *v.* Davis, 22 Wis. 225.
7 Moore *v.* Quirk, 105 Mass. 49.
8 Collector *v.* Day, 11 Wall. (U. S.) 113.
9 U. S. *v.* R. R. Co., 17 Wall. (U. S.) 322; Pollock *v.* Farmers' Loan and Trust Co., 157 U. S. 429.
10 U. S. *v.* Owens, 100 Fed. Rep. 70; Ambrosini *v.* U. S., 187 U. S. 1.

As the scope of the state's operations widens with the growing complexity of social and economic conditions, the problem of determining what are proper governmental functions becomes increasingly difficult. This is illustrated by a recent case in the Supreme Court of the United States. The state of South Carolina, in its efforts to regulate the liquor traffic, had established a dispensary system, and prohibited the sale of liquor by any but its own officers, who sold under certain wholesome restrictions. Under its internal revenue system, the United States imposed upon the dispensers a license tax, from which the state claimed exemption on the ground that the dispensary system was a means employed by it in the execution of its police power. The court, however, though bound by a previous ruling[11] to concede that this dispensary system was a valid exercise of the state's police power, supported the tax on two main grounds: first, that unless it were held valid, the states might cut off the nation's income by engaging in all the industries subject to internal revenue taxes; and second, that in carrying on the liquor business the state was not performing the ordinary functions of a government. A minority of the court, in a strong dissenting opinion, took issue on the second point, and further argued that not only did the first point lose its force because of the undoubted power of the states to cut off the nation's revenue directly by absolutely forbidding the sale of liquor entirely, but also that it amounted to this: "that the government created by the Constitution must now be destroyed, because it is possible to suggest conditions, which, if they arise, would in the future produce a like result." *State of So. Carolina* v. *U. S.*, U. S. Sup. Ct., Dec. 4, 1905.

Though opinions may differ as to what are the proper functions of state government, it seems that the majority of the court, influenced by the nightmare of a socialistic state contributing nothing to the national revenue, drew the line in this case much too sharply. Nothing comes more clearly within the police power of a state than the liquor trade. Nothing is more clearly a governmental function than the exercise of the police power. If, as the Supreme Court itself has held,[12] the state in engaging in the liquor business, is making a valid use of its police power, and is not engaging in a private business for profit, it would seem to follow that in so doing it is performing a governmental function which must not be interfered with by taxation.

POWERS COUPLED WITH AN INTEREST. — The authority of an agent may, in general, be revoked at will by a principal. But where a power of attorney is given as security, it is irrevocable *inter vivos*.[1] To the general rule that all agencies are terminated by the principal's death, the only well-recognized exception is that of a power coupled with an interest. The act of the agent being conceived of as the act of the principal, this necessarily follows, since the act of a dead principal would be an impossibility; but where the agency is coupled with an interest, the act may be valid as the act of the agent even after the principal's death. To define this interest, therefore, becomes of grave importance.

The prevailing American view is that the interest must be an interest

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[11] See Vance *v.* Vandercook Co. (No. 1), 170 U. S. 438.
[12] Vance *v.* Vandercook Co., *supra.*

[1] Walsh *v.* Whitcomb, 2 Esp. 565.